

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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KRUMMHOLZ INTERNATIONAL INC.
and SWISSDIGITAL USA CO., LTD.,

Plaintiffs,

-VS-

WENGER, S.A. and WENGER, N.A.

Defendants.

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**NOTICE OF MOTION TO
DISMISS AGAINST WENGER
NA, INC. PURSUANT TO FED
R. CIV. P. 12(b)**

Docket No. 1:15-cv-86-WMS

MOTION BY:

Defendant **WENGER NA, INC.**, (styled Wenger, N.A. by
Plaintiffs) by its attorneys, Connors & Vilardo, LLP.

**DATE, TIME & PLACE
OF HEARING:**

At a time to be scheduled by the Court, before the Hon.
William M. Skretny, United States District Court, 2
Niagara Square, Buffalo, New York 14202.

Oral argument is requested.

**SUPPORTING
PAPERS:**

Declaration of Ryan S. Osterweil, with exhibits,
Declaration of Marc Gold; and Memorandum of Law.

**RELIEF REQUESTED &
GROUNDS FOR RELIEF:**

An Order of this Court dismissing the claims in the
Complaint against Wenger NA, Inc. because:

- (1) Plaintiffs' claims against Wenger NA, Inc. fail to state a
claim under Fed. R. Civ. P. 12(b)(6);
- (2) This Court lacks subject matter jurisdiction over
Wenger NA, Inc. under Fed. R. Civ. P. 12(b)(1) with
regard to the claims for declaratory relief (Claims 2, 3,
4 and 5);

(3) Plaintiffs' service on Wenger NA, Inc. was insufficient under Fed. R. Civ. P. 12(b)(1);

(4) for such additional relief as this Court may deem just and proper.

**NOTICE OF INTENTION
TO REPLY:**

Plaintiffs and the Court are hereby notified, pursuant to Local Rule 7(a)(1), that Defendant intends to file and serve reply papers.

DATED: Buffalo, New York
May 11, 2015

s/James W. Grable Jr.
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